United States Court of Appeals

for the Second Circuit

APPENDIX

Docket No. 76-1392

76-1392

B

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellees

-vs-

PETER ALAN THOMAS VAN VLECK,

Defendant-Appellant

APPENDIX ON APPEAL

ROBERT E. WALSH
ATTORNEY AT LAW
BRISBANE BLDG.
BUFFALO . NEW YORK

PAGINATION AS IN ORIGINAL COPY

APPENDIX:

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CRIMINAL DOCKET
UNITED STATES DISTRICT COURT

John T. Curtin

CR-1973-211.

THE UNITED STATES

vs.

PETER ALAN THOMAS VAN VLECK(Cts.6,7);JOSEPH CANNIZARO, aka "PEPE" CANNIZARO(Cts 6,7);LORRAINE CZORA(Cts.1,2,3, 6,7); EDWARD J. MOSCA(Cts.4,5,6,7);MICHAEL J. GATES (Cts. 4,5,6,7)

Knowingly attempt to pass a counterfeit & falsely made obligation of the U.S., that is a Twenty Dollar Federal Reserve Note(Ct. 1); Knowingly keep in possession & conceal, falsely made & counterfeited obligations of the U.S. (Cts.2,5); Knowingly sell, counterfeit & falsely made obligations of the U.S.(Ct. 3), in vio. of Sect. 472, Title 18, U.S.C.; Knowingly counterfeit and falsely make obligations of the U.S. (Ct.4), in vio. of Sect. 471, Title 18, U.S.C.; Knowingly attempt to sell falsely made & counterfeited obligations of the U.S.(Ct.6), in vio. of Sects. 472, 2, Title 18,U.S.C.; Conspiracy to commit offenses against the U.S., by knowingly attempting to sell falsely made & counterfeited obligations of the U.S. Ct. 7), in vio. of Sect. 371, Title 18, U.S.C.

For Defendant:
(1) Robert Wilsh, Esq.
(2) George Doyle
(4) Sanford Silverberg, Esq., Jeffery Sellers,
(5) Sanford Silverberg, Esq., Jeffery Sellers, Esq.
(3) Vincent Doyle, Esq. (replaced)
(3) Salvatore R. Martoche, Esq.. (assigned)
(3) Linda Cleveland (assigned)

Clerk

Marshal

Docket fee

JUL 5 1974

Title 18

Sec. 471, 472, 371 & 2

Offenses: 2,1973, 3/1973/ 4/1973, 5/1973 7 Cts.

DATE 1973	PROCEEDINGS
May 24	Filed Indictment
May 24	J.S. 2 made
May 25	Deft. Van Vleck being duly arraigned enters a plea of not guilty. The Court sets bail at $1500 cash and $15000 recog. bond. Court directs deft. to report every Friday morning in person to the Marshal's office; adj. 6/21/1973 for motions.
May 31	Defts. Cannizaro, Czora, Mosca and Gates being duly arraigned, all enter pleas of not guilty to the Indictment. Adj. 6/21/1973 for motions.
May 30	Filed Magistrate's transcript for Deft. Michael J. Gates with $5,000 recog. bond
May 30	Filed Magistrate's transcript for Deft. Edward J. Mosca, with $5,000 recog. bond
May 30	Filed Magistrate's transcript for Deft. David P. Cannizaro, with $10,000 property bond - Louis and Gloria Cannizzaro, surety
May 22	Filed Search Warrant - 808 Main St., Buffalo, N.Y.-United Offset Press Services
May 30	Filed Magistrate's transcript for Deft. Lorraine Czora, with $5,000 recog. bond

DATE 1973	PROCEEDINGS
May 30	Filed Magistrate's transcript for Peter Alan Thomas VanVleck
May 22	Filed Cy. 5 - of CJA-20 - Order appointing Robert Walsh, Esq., as counsel for Deft. VanVleck--MAGISTRATE, MAXWELL
June 20	Filed Deft. Van Vleck's notice of motion for an order directing disclosure, etc, Discovery & Inspection, Etc., Production, etc.; suppression, and etc., ret. 6/21/1973
June 21	Return date for motions. No appearances for defts. Courts directs that Clerk notify all attys. to appear for a meeting 6/27/1973 - 9:30 A.M.
June 27	Motion by deft. Van Vleck for reduction of bail. Court reduces bail to $10,000.
July 27	Filed Deft. Joseph Cannizaro's notice of motion for disclosure, etc., ret. 8/3/1973
July 27	Filed Def.. Lorraine Czora's notice of motion for disclosure, etc., ret. 8/2/1973
Aug. 1	Filed Govt's response to certain pre-trial motions made by the Defts. Joseph Cannizaro, Lorraine Czora
August 1	Suppression Hearing. Court adj. hearing until 9/10/1973. Application by Deft. Van Vleck for reduction of bail. Court reduces bail to $5,000, with cash security of $150.00
Aug. 2	Filed Order that an omnibus hearing in this case shall be held on Monday September 10, 1973, at 2:00 P.M., and continued if necessary on the days following until completion. All Counsel and defendants are directed to be present. In the meantime, if any counsel shall receive a conflicting orderfrom another Court, the content of this order shall be conveyed to that court & the fact of the conflicting order shall be given to this court. Upon motion of Atty. Robert E. Walsh, etc, it is ordered that bail for Peter Van Vleck be reduced to a bond of $5,000. Deft. shall post $150 in cash. He shall execute a recog. bond in the sum of $5,000 and report in person to the Marshal every Monday, Wednesday and Friday until further order of the Court--CURTIN, J.
Aug. 2	Filed $5,000 recog. bond/- with conditions and with $150.00 security deposited with Clerk of Court. -
Aug. 2	Return date for motions. Deft. has filed motions. Adj. to 9/10/1973 for oral argument on motions.
Sept. 5	Defts. Edward J. Mosca and Michael J. Gates, present with counsel, change their pleas from not guilty to guilty to Count 7 of the Indictmen Sentence is adj. to 10/11/1973.
Oct. 11	U.S. v. Edward J. Mosca & Michael J. Gates. For sentence. Adj. generall
Oct. 18	Application by Deft. Czora for change of counsel. Court relieves Atty. George Doyle as counsel and consents to the substitution of Atty. Vincent Doyle as counsel for the Deft. Czora. Adj. to 11/1/1973.
Nov. 1	U.S. v. Lorraine Czora - determination of counsel. Atty. Vincent Doyle to represent deft. - Deft. present in Court. Court to fix date for oral argument on motions.
Dec. 18	Suppression hearing. Hearing does not go on due to conflicts in Attys. schedules. Adj. to 1/31/1974 for status report.
1974	
Jan. 31	U.S. vs. Peter VanVleck, et al - stauts report. No appearances for defts. Adj. to 2/28/1974

Peter Alan Thomas Van Vleck, et al — Sheet No. 2

CRIMINAL DOCKET — Cr-1973-211

DATE 1974	PROCEEDINGS	Plaintiff	Defendant
Feb. 12	Filed Govt's Bill of Particulars		
Feb. 19	Application by surety, Helen S. Anderson, to be relieved as surety on Defendant Peter Van Vleck's bond. Application granted. Bond forfeited and deposit posted by surety directed to be paid by the Clerk.		
Feb. 20	Application by Deft. Van Vleck for bail. Application granted. Deft. released on $5,000 personal Recog. bond, with a cash deposit with the Clerk of court in the amount of $150.00.		
Feb. 20	Filed $5,000 personal recog. bond, with $150.00 cash deposited by deft. Peter Van Vleck		
Mar. 4	Status Report. ~~XXXXXXXXXXXXXXXX~~ Hearing date to be determined by Judge		
Apr. 29	Set trial date. Adj. to 5/17/1974 for suppression hearing.		
May 17	Omnibus hearing. Hearing is adj. 5/20/1974		
May 20	Hearing continued from 5/17/1974 with the same appearances. Hearing adj. until 5/22/1974 at 2:00 P.M.		
May 22	Hearing continued from 5/20 with the same appearances --Evidence closed. Memos to be submitted by 6/10/1974		
May 23	Filed subpoena - George Kontrabecki, served 5/14/1974		
May 23	Filed subpoena ticket - George Kontrabecki, served - 5/14/1974		
June 4	Filed Deft. Joseph Cannizzaro's consent to transfer of case for plea and sentence to the Middle Dist. of Florida, pur. to Rule-20		
June 4	Certified cy. of Indictment, certified cy. of Deft's consent to transfer case for plea and sentence, pur. to Rule-20 for Joseph Cannizzaro, mailed to the Clerk, U.S. Dist., Ct., for the Middle Dist. of Florida, at Jacksonville, Fla.		
June 10	Return date for briefs - Adj. to July 1, 1974.		
July 1	Return date for briefs - Adj. to 7-29-74		
July 2	Filed cy. 5 - of CJA-21 - Authorization of transcript; cy. to the adm. office		
July 3	Filed Court Stenographer's transcript of Proceedings of hearing on motion to suppress, held before Judge Curtin, commencing on May 17, 1974.		
July 5	Filed cy. 2 voucher for transcript in the amt. of $112.40; orig. to Adm. Office.		
July 29	Return date for briefs. Govt. has filed brief. Adj. to 8/19/74 for deft's brief.		
Aug. 26	Status report. Adj. to 9/9 for determination of counsel for deft Lorraine Czora		
Sept. 18	Re: Lorraine Czora - The Court assigned atty. Marioche to represent deft., as she was present and furnished her address as 12 Bertel Ave., Buffalo and her telephone as 834-1011		
Sept. 19	Filed cy. 5 of CJA 20 - order appointing Salvatore R. Marioche as counsel for Lorraine Czora CURTIN, J.		
Sept. 30	Status report. Adj. to 10/7/74		

DATE	PROCEEDINGS	CLERK'S FEES PLAINTIFF	CLERK'S FEES DEFENDANT
1971			
Oct. 7	Status Report - Peter Alan Van Vleck, et al; No appearances for defts. Adj. to 10/15/1974		
Oct. 15	Status report. Adj. to 10/29/74		
Oct.29	Status Report - U.S. vs. Peter Alan Van Vleck,et al - Status Report. Adj. to 11 11 1974		
Nov.11	Status report. Court orders jury selection 11/26/74		
1975			
Jan. 21	Filed two subpoenas - Sidney Fish, served 1/18/75; Joseph Lazarony, served 1/17/75--		
Jan 24	Filed Pet. & Order for Writ of H C Ad Test., tet. 1/30/75 CURTIN, J.		
Feb 28	Filed Writ of H C Ad Test., executed 2/20/75		
Apr.11	Filed Order that a subpoena be issued addressed to Richard Buck, at his home 376 East Dyke, Wellsville, N.Y. , etc., commanding him to appear herein to testify in this case, at Buffalo,N.Y., on 4/22/75, and the costs incurred by the process and fees of the witness so subpoenaed be paid in the same manner in which similar costs and fees are paid in the case of witnesses subpoenaed in behalf of the government,subpoena to be issued on behalf of Deft. Peter Alan Thomas Van Vleck--CURTIN,J.		
July 14	Filed letter accompanied by a prior Medical Report, relative to the deft. Peter Van Vleck, from Atty. Robert E. Walsh, to the Court dated, 7/14/1975, verifying the medical condition of the Deft.		
Sept.19	Filed subpoena Sidney Fish, served - 9/17/75		
Sep. 24	Filed subpoena - Joseph Lazarony - served - ret. no-service		
Nov. 4	Pre trial conference held in the above case.		
Nov. 4	Pre trial conference held in the above case.		
1976			
Feb. 26	Filed copy 5 CJA 20 order appointing Linda Cleveland as counsel for Lorraine Czora. Copy 4 to Adm. office. Curtin, J.		
Mar. 22	Status report. Peter Van Vleck & Lorraine Czora. Case ready for trial. Trial set for 4/20/76		
Apr. 16	Filed subpoena for Peter Van Vleck to Sidney Fish served 4/13/76		
Apr. 19	Filed Govt's trial memorandum		
Apr. 20	Filed subpoena - Joseph Lazarony, served 4-19-76.		
Apr. 20	Govt. moves case ready for trial, trial is adj. until after the completion of the case now on trial. re: Peter Alan Van Vleck		
Apr. 20	Deft. Czora present with counsel, enters a plea of guilty to count 7 of the indictment. Sentence is deferred until 5-24-76. Deft. is continued on bail.		
Apr. 23	Filed supboena for Timothy Gunning ret. no service.		
Apr. 23	Filed subpoena for George Kontrabecki served 4-13-76		

. v. Peter Alan Thomas Van Vleck, et al

CRIMINAL DOCKET

Sheet No. 3
Cr-1973-211

DATE 1976	PROCEEDINGS	CLERK'S FEES
Apr. 29	Trial continues for Peter Alan Van Vleck from April 20, 1976 with same appearances & jury. On motion of the deft. the Court declares a mistrial. The jury is discharged from consideration of this case.	
May 4	Government moves case ready for trial, before Judge Curtin, at Buffalo, New York, whereupon the jury is duly enpanelled; Trial is adj. until tomorrow --	
May 5	Trial continued from yesterday with the-same appearances and jury. Government rests. Trial is adj. until tomorrow.	
May 6	Trial continues from yesterday with the same appearances & deft. moves for judgment of acquittal and dismissal of the indictment. Motion denied. Deft. renews motions made at the end of the Govt's case. Motions denied. The jury retires to deliberate upon their verdict. The Jury retires at 4:30 PM to further deliberate upon their verdict; Jury returns with the following verdict: Defendant is guilty on Counts 6 and 7 of the indictment as charged. Sentence is deferred 6/7/76. Bail to continue.	
May 12	Filed defts' motion for a new trial and setting aside the jury verdict of guilty and entry of a Judgment of Acquittal ret. 5-13-76.	
May 24	For sentence. Adj. to 6-14-76 because of an injury to the deft, Lorraine Czora.	
May 27	Filed letter dated 5/25/76 from Atty., Robert Walsh, to the Court, in compliance with the instruction contained in a recent letter received from Dept. Clk, Robert White. Mr. Walsh has examined the Probation Report, and has no serious quarrel with the report; Mr. Van Vleck has requested Mr. Walsh to request an adj. of sentence for about one month, because of some business dealing that he has pending at this time.	
June 7	For sentence - Peter Alan Thomas Van Vleck; Adj. 7/19/76 at the request of the Deft.	
June 14	Defendant Czora is sentenced on Count Seven as follows: Imposition of sentence is suspended, and the defendant is placed on probation for a period of Three (3) Years. Curtin, J.; Cts. 1,2,3,6 are hereby dismissed.	
June 14	Defendant Edward Mosca is sentenced on Ct. 7, as follows: Imposition of sentence is suspended, and the defendant is placed on probation ofr a period of Three (3) Years. Curtin, J.; Cts. 4,5,6 are hereby dismissed.	
June 14	Deft. Michael Gates is sentenced on Ct. 7 as follows: Imposition of sentence is suspended, and the defendant is placed on probation for a period of Three (3) Years--CURTIN, J. ; Cts. 1,5,6 are hereby dismissed.	
June 18	Filed Judgment and order of probation for deft's Gates, Mosca, and Czora, CURTIN, J.	
June 24	Filed Deft. Michael Gates notice of appeal from the final judgment in	

CLOSED

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DATE 1976	PROCEEDINGS	CLERK'S FEES PLAINTIFF	DEFENDANT
June 21	the Court entered on 6/11/76; Cy. to the U.S. Atty., Deft., and to CCA with statement of docket entries		
July 19	Filed Ct. Steno's transcript of proceedings before Judge Curtin on 9-5-73 and 6-14-76.		
July 16	Received scheduling Order from the Ct. of Appeals - appeal for Michael J. Gates, that the record be filed - on or before 7/19/76		
July 19	Motions made by deft. Van Vleck at the jury verdict are denied. Deft. Van Vleck is sentenced on counts 6 and 7 as follows: Deft. is remanded to the custody of the Atty. General for a period of Five (5) Years. Sentences are to run concurrently. Curtin, J.		
July 23	Filed Judgment and commitment for deft. Van Vleck. Commitment issued to the Marshal		
July 21	Filed Cy. 5 of CJA-21 - Authorization for Transcript		
Aug. 4	Deft. present with counsel, makes application for Court appointed counsel. Application granted. Court approves payment of transcript of trial and other expenses on appeal.		
Aug. 20	Filed 2 volumes of trial trial transcript, taken before Judge Curtin commencing on 5/4/76.		
Aug. 20	Filed copy 2 CJA 21 voucher for Ct. Steno. in the amt. of $558.00, orig. to Adm. office. CURTIN, J.		
Sep. 1	copy of notice of appeal, financial affidavit, form A, and copy of docket entries mailed to CCA.		

CLOSED

In the District Court of the United States

For the Western District of New York

CERTIFIED COPY

THE UNITED STATES OF AMERICA

-vs-

PETER ALAN THOMAS VAN VLECK,
JOSEPH CANNIZARO, a/k/a "Pepe" CANNIZARO,
LORRAINE CZORA, EDWARD J. MOSCA and
MICHAEL J. GATES

MARCH 1973 SESSION

No. 1973 211

Vio. T. 18, U.S.C.,
Sections 471, 472,
371 and 2

COUNT I

The Grand Jury Charges:

That on or about the 15th day of April, 1973, in the Western District of New York, the defendant, LORRAINE CZORA, did knowingly and with intent to defraud, attempt to pass a counterfeit and falsely made obligation of the United States, that is, a Federal Reserve Note in the denomination of twenty dollars; all in violation of Title 18, United States Code, Section 472.

COUNT II

The Grand Jury Further Charges:

That on and between April 15, 1973 and May 1, 1973, in the Western District of New York, the defendant, LORRAINE CZORA, did knowingly and with intent to defraud, keep in her possession and conceal, falsely made and counterfeited obligations of the United States; all in violation of Title 18, United States Code, Section 472.

COUNT III

The Grand Jury Further Charges:

On or about May 4, 1973, in the Western District of New York, the defendant, LORRAINE CZORA, did knowingly and

with intent to defraud, sell to William [illegible] counterfeit and falsely made obligations of the United States, that is, $1,170 in denominations of ten dollar and twenty dollar counterfeit Federal Reserve Notes; all in violation of Title 18, United States Code, Section 472.

COUNT IV

The Grand Jury Further Charges:

That in and between February, 1973 and May 17, 1973, in the Western District of New York, the defendants, EDWARD J. MOSCA and MICHAEL J. GATES, did knowingly and with intent to defraud, counterfeit and falsely make obligations of the United States; all in violation of Title 18, United States Code, Section 471.

COUNT V

The Grand Jury Further Charges:

That between March, 1973 and May 17, 1973, in the Western District of New York, the defendants, EDWARD J. MOSCA and MICHAEL J. GATES, did knowingly and with intent to defraud keep in their possession and conceal falsely made and counterfeited obligations of the United States; all in violation of Title 18, United States Code, Section 472.

COUNT VI

The Grand Jury Further Charges:

On or about the 17th day of May, 1973, in the Western District of New York, the defendants, [illegible] [illegible] YOUNG, [illegible], [illegible] CARMELLO, [illegible] MOSCA, EDWARD J. MOSCA and MICHAEL J. GATES, did knowingly and with intent to [illegible] [illegible]:

falsely made and counterfeited obligations of the United States, that is, approximately $175,000 in denominations of ten dollar and twenty dollar counterfeit Federal Reserve Notes; all in violation of Title 18, United States Code, Sections 472 and 2.

COUNT VII

The Grand Jury Further Charges:

That beginning in or about March, 1973 and continuing through the 17th day of May, 1973, in the Eastern District of New York, the defendants, PETER ALAN THOMAS VAN VLECK, JOSEPH CANNIZARO, a/k/a "Pepe" CANNIZARO, LORRAINE CZOLA, EDWARD J. MOSCA and MICHAEL J. CATES, did wilfully, knowingly and unlawfully combine, conspire and agree together to commit offenses against the United States; to wit, to violate Section 472 of Title 18, United States Code, by knowingly and with intent to defraud, attempting to sell falsely made and counterfeited obligations of the United States; all in violation of Title 18, United States Code, Section 371.

OVERT ACTS

In furtherance of the conspiracy and to effect the objects thereof, the defendants committed the following overt acts:

1. In or about February, 1973, the defendants, PETER ALAN THOMAS VAN VLECK and EDWARD J. MOSCA, met and discussed printing of counterfeit currency.

2. In or about March, 1973, the defendant, EDWARD J. MOSCA, traveled by automobile to Rochester, New York to purchase rag content paper.

3. In or about March, 1973, the defendants, EDWARD J. MOSCA and MICHAEL J. CATES, [illegible]

counterfeit currency.

4. In or about March, 1973, the defendant, MICHAEL J. GATES, produced negatives for the printing of ten dollar and twenty dollar counterfeit Federal Reserve Notes.

5. On or about May 3, 1973, the defendant, LORRAINE CZORA, met with William J. Ebert and Beverley Zoeller at 1574 Maxwell Road, Amherst, New York, to discuss the sale of counterfeit currency.

12:30 A.M. 6. On or about May 4, 1973, the defendant, LORRAINE CZORA, met with William J. Ebert and Beverley Zoeller at 2766 Elmwood Avenue, Kenmore, New York, to discuss the sale of a quantity of counterfeit ten and twenty dollar Federal Reserve Notes.

7. On or about May 4, 1973, at 1135 Niagara Falls Boulevard, Amherst, New York, Beverley Zoeller delivered to William J. Ebert $1,170 in counterfeit ten and twenty dollar Federal Reserve Notes.

2:30 P.M. 8. On or about May 4, 1973, the defendant, LORRAINE CZORA, received from William J. Ebert, at Sheridan Drive and Delta Road, Amherst, New York, payment in the sum of $250 in genuine currency for said delivery.

3:30 P.M. 9. On or about May 9, 1973, the defendant, LORRAINE CZORA, met with William J. Ebert at 935 Somerville Street, Tonawanda, New York, to discuss the sale of a large sum of counterfeit currency.

[illegible] P.M. 10. On or about May 10, 1973, the defendants, LORRAINE CZORA and PETER ALAN THOMAS VAN VLACK, met at 3125 Delaware Avenue, Kenmore, New York.

[illegible] 11. On or about May 10, 1973, the defendants, [illegible] and William J. [illegible] Kenmore, New York. [illegible]

12. On or about May 16, 1973, the defendants, LORRAINE CHORA and JOSEPH CAMMARANO, a/k/a "Pepe" CAMMARANO, met at 3268 Delaware Avenue, Kenmore, New York, at approximately 2:17 P.M.

13. On or about May 16, 1973, William J. Ebert placed a telephone call to the defendant, LORRAINE CHORA, at 3268 Delaware Avenue, Kenmore, New York, and discussed a transaction involving the sale of $175,000 in counterfeit obligations of the United States, namely, ten dollar and twenty dollar Federal Reserve Notes.

3:30 P.M.

14. On or about May 16, 1973, the defendants, LORRAINE CHORA and JOSEPH CAMMARANO, a/k/a "Pepe" CAMMARANO, at approximately 4:10 P.M., left together from the premises commonly known as 3268 Delaware Avenue, Kenmore, New York.

15. On or about May 16, 1973, the defendants, LORRAINE CHORA, met William J. Ebert at 1139 Niagara Falls Boulevard, Amherst, New York, and discussed the deal for the purchase of $175,000 in counterfeit currency.

2:45 P.M.

16. On or about May 16, 1973, the defendant, JOSEPH CAMMARANO, explained to William J. Ebert the reason that delivery of the counterfeit currency would be delayed.

17. On or about May 16, 1973, the defendants, PETER ALAN THOMAS VAN VLECK and LORRAINE CHORA, met at 3115 Delaware Avenue, Kenmore, New York.

5:45 P.M.

18. On or about May 16, 1973, the defendant, EDWARD J. HOSCH, met with William J. Ebert at 863 Main Street, Buffalo, New York, and agreed to deliver $175,000 of counterfeit ten and twenty dollar Federal Reserve Notes to [illegible].

1:00 P.M.

19. On or about May 16, 1973, [illegible]

[illegible] of counterfeit currency [illegible].

11

Two. On or about May 17, 197[illegible], at [illegible] Street, Buffalo, New York, the defendants, [illegible] and MICHAEL [illegible], possessed $106,350 in counterfeit ten and twenty dollar Federal Reserve Notes.

_____
[illegible]
United States Attorney

BY: _____
[illegible]
First Assistant United States Attorney

A TRUE BILL:

_____
Foreman

No. 1973 211

UNITED STATES DISTRICT COURT

WESTERN District of NEW YORK

THE UNITED STATES OF AMERICA

vs.

PETER ALAN THOMAS VALLETTOCK, JOSEPH-CARMELLO, a/k/a "Joe" CAMMEZARO, LORRAINE CZORA, EDWARD JT. [illegible]

INDICTMENT

[illegible]

[illegible]

[illegible] day of MAY 2 1 1973 A.D.

[illegible]

BEST COPY AVAILABLE

PROCEEDINGS: After recess, 1:33 p.m.

APPEARANCES: As before noted.

(Defendant present.)

(Jury present.)

CHARGE OF THE COURT

THE COURT: Ladies and gentlemen, at this time, it is now my task to charge you on the law which applies to this case as well as I can in keeping with the statutes, decided cases and the rules, and it is your task to li ten to the charge and apply it to the facts which you will find in the case.

As I have explained to you before, you determine the facts from the testimony of the witnesses and the exhibits which have been introduced into evidence. The exhibits will be delivered to you in the jury room for your assistance. I will also send to you a copy of the indictment so that you will have this as a guide so that when you come back and you have arrived at a verdict, your foreman, upon

1 questioning by Mr. White, the clerk,
2 can announce orally your verdict in open
3 court.
4 The verdict, of course, each count
5 you must consider separately and you must
6 vote on each count separately. Your vote
7 must be by unanimous vote on each and
8 your vote would be and your verdict would
9 be either guilty or not guilty announced
10 in open court by your foreman.
11 It is important that during your
12 sessions, that you deliberate. We talk
13 about jury deliberation. Jury delibera-
14 tion is your discussing the evidence in
15 the case conscienciously without bias,
16 prejudice, passion toward one side or the
17 other in the case. Objective reasoning
18 should be your goal. You should not
19 infuse into the deliberation process any
20 rumors or general notions you have about
21 law enforcement generally or about what
22 you have heard has happened in other
23 cases at other times. Your job and my
24 job in this case is a rather narrow one.
25 We are not here to be detectives.

1 We are not here to pass upon the good or
2 evil of others in the case outside of
3 their being witnesses and that, certainly,
4 of course, you may consider whether
5 people have conducted themselves in a
6 proper manner to determine whether or not
7 they are credible witnesses, but that is
8 a different point from the one I am
9 making now.
10 We are here to judge the guilt or
11 innocence of Mr. Van Vleck. You know that
12 others in the case have pled guilty and
13 that has been spread out in the record.
14 Their reasoning, why they pled guilty,
15 what evidence the Government had against
16 them, either apparent or whatever else
17 might have been in the case is not before
18 you in the sense that it cannot be con-
19 sidered as any evidence at all against
20 the defendant Van Vleck. What evidence
21 was before Mr. Mosca, for example, each
22 individual has different circumstances
23 facing him.
24 Mr. Van Vleck, as we have explained
25 before, presumed innocent. It is the

burden on the part of the Government to prove his guilt beyond a reasonable doubt and that can only be by legal, competent, believable, credible evidence and it is for you to make all those judgments. Certainly, as I have explained it to you before, it is no evidence at all of guilt pointing to Mr. Van Vleck, the fact that he is indicted.

That is a means of bringing the case into court and to make sure that he is not charged again, to make sure that he is able to mount his defense. The burden remains upon the Government to prove his guilt beyond a reasonable doubt.

On the exhibits, many exhibits will be delivered to you. There will be some exhibits which you have heard discussed and commented upon by the witnesses which will not be sent to you. I point this out because in questioning Mr. Mosca and Mr. Gates, Mr. Walsh showed them statements which they had given to the agents at another time and as to when they were given and the manner in which they were

given, that is for your determination to make your judgment about what bearing they had here, but these exhibits, for example, will not be delivered to you because under the rules, they are not admitted in evidence. They were here to be used as a guide. The most important information for you is what did the witness testify to in open court on direct and also on cross examination.

In the entire mix, you certainly may take into account what was said at an earlier time by the witness in determining whether or not his testimony given at this time is factual in making up your mind about how important it is to your resolution of the issues in this lawsuit, but I just wanted, for the present, I wanted to explain to you that because of certain rules and decided cases, certain exhibits will be not given to you. Whatever you heard about them you may consider, but what is not before you, then you simply will not consider it.

During the course of the trial, I

have had occasion to sustain certain objections or to overrule certain objections or to tell you that certain testimony should not be included. If I said that certain testimony should not be included, then you should not consider it in your deliberations.

It is well when you go to the jury room to pick one of your number to act as your foreman. He can be your spokesman when you come into court. If you have a question to put to the Court you should only do it in writing which you will give to the Marshal to be delivered to the Court and then we will have you back in and we will talk to you about whatever the problem is. You should not attempt to communicate with anyone other than through this particular scheme. I do not want to hurry your deliberation and tell you how long to deliberate. That is entirely up to you. You are the determiners of how long it will take you to decide. So that you can approach your problems with a clear mind, however, without worrying

about what is going to happen at home if you are expected at a particular time, I will tell you after my charge you will then start your deliberation. If you can finish this afternoon, fine. If you cannot, then I will have you come back up at 5:30 and we will take a recess and have you come back tomorrow so that you can go to your homes overnight and not stay here during the evening hours. I will tell you this later, but it is important if you do go home overnight, you do not talk about this case with anyone at all.

The first thing in any lawsuit is what are we going to consider. As I have explained, you consider all the testimony of the witnesses and all of the exhibits which are introduced into evidence. You may consider this information not only just as it directly gives you information, but also as to any reasonable inferences which may flow from the direct testimony you have received.

A formal way of saying that is that

there are two types of evidence from which a jury may properly find the truth as to the facts of a case. One is direct evidence. That is, the testimony of an eye witness. The other is indirect or circumstantial evidence, the proof of a chain of circumstances pointing to the existence or non-existence of certain facts. The law makes no distinction between direct and circumstantial evidence but requires that the jury find the facts in accordance with the preponderance of all the evidence in the case, both direct and circumstantial and as I have explained to you, the rule in a criminal case is that the burden is on the Government to prove guilt beyond a reasonable doubt.

In considering circumstantial evidence, you know that we must approach this with care. We must use our common sense and if there are two inferences that may come out of a set of facts, both reasonable, one pointing to guilt and the other pointing to innocence, then the jury, in keeping with the rule of reasonable doubt, must

adopt the inference which points to innocence.

In making up your mind about the evidence in the case, you will essentially mostly rely upon the testimony of the witnesses who have testified. In doing that, you will make a judgment about how the testimony of one witness is connected up with that of another, how it is supported by the testimony of the other witnesses or not supported, how it is supported or not supported by the exhibits in the case. You are the sole judges of the credibility of the witnesses and it is up to you to determine how much weight their testimony deserves. You should carefully scrutinize the testimony given, the circumstances under which each witness testified and every matter in evidence which tends to indicate whether the witness is worthy of belief. You may take into consideration the appearance, attitude, behavior of the witness, the interest of the witness in the outcome of the case, the relation of the witness

to any party to the suit, the inclination of the witness to speak truthfully or not to speak truthfully, the probability or improbability of a witness' testimony. You may consider any conscious or unconscious bias or prejudice that the witness may have toward either side of the case, what hope of reward or of leniency any witness may feel that he or she may receive because of the outcome of the litigation.

You may consider the demeanor and manner of the witness on the stand. You should consider not only direct testimony, but also the cross examination of the witness. You should consider the witness' intelligence, motive and state of mind while on the witness stand. Of course, as far as the witness telling you that he observed something that happened at a particular time, you should keep into account whether it was light or dark, whether the witness was close or far away. You should determine whether or not, in your judgment, the witness had an accurate

1 recollection of what had occurred.

2 Inconsistencies or discrepancies

3 in the testimony of a witness does not

4 mean that you must discredit such testi-

5 mony entirely. In weighing the effect

6 of a discrepancy, you will always con-

7 sider whether it pertains to a matter of

8 importance or an unimportant detail and

9 whether the discrepancy results from

10 innocent error or intentional falsehood.

11 You, ladies and gentlemen, are

12 entitled to use your common sense under

13 these rules in determining the facts from

14 the testimony of the witnesses and the

15 exhibits which have been introduced into

16 evidence.

17 In applying these general rules to

18 this particular case, you must keep in

19 mind that as to certain witnesses, the

20 law requires special care and attention.

21 The witnesses such as Mrs. Czora, Mr.

22 Mosca, Mr. Gates, who have pled guilty to

23 a charge and are awaiting sentence by the

24 Court, you may take into your considera-

25 tion all of these factors in determining

1 whether or not this has or may have in-
2 fluenced in any fashion the testimony
3 of these witnesses. They here admitted
4 their part in some kind of criminal act.
5 Their testimony, simply because of that
6 fact alone, putting aside the question of
7 conviction, means that you must put their
8 testimony to searching scrutiny and only
9 receive it with great care and caution.
10 There are some other general rules
11 which we should talk about for a few
12 minutes. Mr. Walsh, in his argument,
13 points to the fact that Mrs. Czora's, -
14 that young lady, and the name has escaped
15 my mind, who we heard about and who intro-
16 duced her to the man known as Joe Marine
17 or Marina and who turned out to be Mr.
18 Ebert, she did not appear here as a witness.
19 We heard a lot about Mr. Cannizaro. We
20 heard something about Mr. Cannizaro and he
21 did not appear here as a witness. Mr.
22 Williams says that it is not the obligation
23 of the Government to produce all of the
24 testimony and all the witnesses they have
25 available. That is true, but on the other

1 hand, if you believe that these witnesses
2 are under the control of the Government
3 and that their testimony is important
4 for your consideration and that it is not
5 here, - obviously, it is not here, -
6 then you may take inferences against the
7 Government's case in considering this lack
8 of production of these witnesses.
9 Stated in a formal way, it comes to
10 this, the law does not require the
11 prosecution to call as witnesses all
12 persons who may have been present or
13 may have been involved in the case or
14 have knowledge of the case. However, in
15 judging the credibility of the witnesses
16 who have testified and in considering the
17 weight and effect of all evidence that
18 has been produced, you may consider the
19 prosecution's failure to call other
20 witnesses or to produce other evidence
21 shown by the evidence in the case to be
22 in existence and available. These are
23 questions for you to determine whether or
24 not the testimony is in existence and
25 whether it is available and whether it is

important and whether or not even if it is all those things, whether or not you have enough information to go on and make your judgment from what has been testified to here.

It is again well worth repeating that the law places no burden upon the defendant in a criminal case, no burden of calling any witnesses or producing any evidence and no adverse inferences may be drawn from his failure to do so.

We talked about reasonable doubt. What is it? A reasonable doubt is a fair doubt based upon reason and common sense and arising from the state of the evidence. It is rarely possible to prove anything to an absolute certainty. Proof beyond a reasonable doubt, therefore, is established if the evidence is such as you would be willing to rely and act upon in the most important of your own affairs. A defendant is not to be convicted, however, on suspicion, conjecture or speculation. A reasonable doubt may arise not only from the evidence produced, but also from

1 the lack of evidence. Since the burden
2 is upon the prosecution to prove the
3 accused guilty beyond a reasonable doubt
4 of every essential element of the crime
5 charged, a defendant has the right to
6 rely upon failure of the prosecution to
7 establish such proof. A defendant may
8 also rely upon evidence brought out on
9 cross examination of witnesses for the
10 prosecution.
11 The law does not impose upon a
12 defendant the duty of producing any
13 evidence. A reasonable doubt is such a
14 doubt as is based upon reason and as
15 appeals to your power of logic. It is a
16 doubt arising out of something tangible
17 in the evidence or something lacking in
18 the case. It is to be distinguished from
19 a doubt which might be based on emotion.
20 If you feel uncertain and not fully
21 convinced that a defendant is guilty of
22 the crimes charged and you believe you are
23 acting in a reasonable manner and you
24 believe a reasonable man or woman in any
25 matter of like importance would hesitate

to convict because of such a doubt as you have that is a reasonable doubt to the benefit of which the defendant is entitled. If you have such a doubt, you must acquit.

In this case, ladies and gentlemen, Mr. Van Vleck did not take the stand. In keeping with what I have already told you, that is his absolute right and you may not, in your deliberation, consider this in any fashion against him. You may not consider it in your own mind. You may not talk about it. You may not let it influence your judgment in any way. He has the absolute right not to take the stand and his failure to take it may not be held against him in any fashion.

We will pass on to the particular counts in the indictment. I have already told you that I will give to you, or I hope I did, - I will give you a copy of the indictment for your use during your deliberation. That is, a copy which relates to the particular counts which we are going to deal with in this case. The

other counts deal with Mr. Mosca and Mr. Gates and some of the other people and they are not before you. So we can zero in on what counts we will only include the counts with which Mr. Van Vleck is involved.

In Count 6 in the indictment, the defendant Peter Van Vleck is charged with attempting to sell falsely made and counterfeited obligations of the United States in the amount of about $175,000 in ten and twenty dollar Federal Reserve Notes in violation of Title 18, United States Code, Section 472. That section provides partly as follows:

Whoever with intent to defraud attempts to pass or sell any falsely made forged, counterfeited or altered obligation or other security of the United States, shall be guilty of an offense against the laws of the United States.

Under this particular count, the Government must prove three essential elements beyond a reasonable doubt in order to attain your verdict of guilty.

First, that the defendant attempted to pass a counterfeit obligation or obligations of the United States at or about the time mentioned in the charge.

Secondly, that the defendant knew at the time that the obligation or obligations were counterfeit.

Thirdly, that he attempted to pass or sell the obligation willfully and for the purpose of defrauding someone.

In the same count of the indictment, the defendant Peter Van Vleck is also charged with a violation of United States Code, Section 2 which provides that whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission is punishable as a principal.

In other words, in a case where two or more persons are charged with the commission of a crime, the guilt of a defendant may be established without proof that he personally did every act constituting the offense charged. In order to aid and abet another to commit

a crime, it is necessary that the accused willfully associated himself in some way with the criminal venture and willfully participated in it as he would in something he wishes to bring about. That is to say that he willfully seeks by some act or omission of his to make the criminal venture succeed.

You must find, certainly, that the defendant in this count and in the other count acted with a specific intent to disobey or to disregard the law. You must find that he acted willfully, he did not act through mistake or error or through carelessness, but that he knew the facts and he went ahead and he willfully attempted to pass or sell the obligations described in the indictment.

I am going to leave the finding of fact to you, ladies and gentlemen. That is your function, but generally speaking, in this case, we have on the last day, under one interpretation of the evidence, the fact that Mr. Van Vleck was not right at the scene where the meeting was going

on between Mr. Ebert, Mr. Mosca and when then Mrs. Czora came on the scene. Mr. Van Vleck was not there. It is not necessary that the defendant be personally present in such a meeting, but if you find that he was the one that caused it to come about, that under the charge that I have given to you under aiding and abetting, if you find that he counsels, commands, induces or procures the commission of the act, then he is punishable as a principal.

If you find that he willfully associated himself with the venture, with the criminal venture, - that is, to pass these particular counterfeit notes and willfully participated in it as he would in something he wishes to bring about, that is to say he willfully sought by some act or omission of his, he sought to have the criminal venture succeed.

You must also find from all the evidence in the case that the obligations were counterfeit, that they were not genuine obligations of the United States.

1 In that regard, I should mention the
2 fact that we have the testimony here of
3 the agent, the Secret Service Agent who
4 told you about his opinion. Generally,
5 we do not listen to the opinions of
6 ordinary lay people, but certain people
7 we can listen to. If the man is a
8 plumber he can come in here and tell us
9 how to take care of a plumbing problem,
10 but an ordinary householder would not be
11 permitted to come in and testify in
12 court, or how to wire a house, or a
13 doctor can come in and tell us about the
14 medical ills of a person. A nurse,
15 perhaps, but someone who just has some
16 general knowledge of medicine from
17 reading, of course, not, so the first
18 thing you have to do is to determine
19 whether or not the man is qualified to
20 testify about whether certain obligations
21 are good or bad, whether they are counter-
22 feit or whether they are genuine and
23 then you have to listen to his testimony
24 and determine from the facts that he
25 has assumed and which he has explained

to you whether his judgment is good or bad and from that, and you can accept his testimony if you believe that he is qualified and if you believe that the assumptions that he has made are valid ones and that his reasoning is correct and that his final conclusion is a good one.

Count 7 of the indictment charges the defendant with others, and you will have all the names in the indictment, with conspiring to violate Section 472 of Title 18 by attempting to sell falsely made and counterfeit obligations of the United States in violation of Title 18, Section 371. Section 371 provides partly that if two or more persons conspire to commit any offense against the United States and one or more of such persons do an act to effect the object of the conspiracy, each is guilty of an offense against the United States.

The conspiracy count is different from the other count. The conspiracy count involves planning of a criminal

venture. It does not matter whether it succeeds or it fails. It is the planning, if you find within the law is accomplished as I will charge it to you which counts. I the other one, it is the doing of the act which is the essential part, but naturally, if you make a plan and it succeeds or it almost succeeds, that is certainly good evidence of the plan itself.

In order to find Mr. Van Vleck guilty, you must find the following elements beyond a reasonable doubt:

The existence of a conspiracy for the purpose of attempting to sell counterfeit obligations of the United States as described in the indictment and within the time span as set forth in the indictment.

Secondly, that the defendant joined the conspiracy with knowledge of the unlawful purpose of the conspiracy.

Thirdly, that one of the conspirators committed at least one overt act in furtherance of the object of the conspiracy

A conspiracy, ladies and gentlemen, is a combination or agreement among two or more persons to violate the law as charged in the indictment. In this case, an agreement to pass or sell or attempt to pass or sell counterfeited obligations of the United States with the intent to defraud or with the intent that those obligations be used as true and genuine. A conspiracy is a kind of partnership in a criminal purpose. The gist of the crime is the agreement to violate the law. This does not mean that two or more persons must meet and sign a formal partnership agreement or that they must sit down and agree in so many words on what their unlawful plan is.

The first element is satisfied if you find beyond a reasonable doubt that any two or more of the people stated in the indictment in any way intentionally combined or agreed to a common plan knowingly and intentionally to pass or sell or attempt to pass or sell counterfeit obligations.

The second element which the Government is required to prove beyond a reasonable doubt is that each defendant joined the conspiracy with knowledge of its unlawful purpose.

When I say joined the conspiracy, I do not mean that he had to apply for membership. However, before one can be found to be a conspirator, he must know about the conspiracy, about its unlawful purpose and voluntarily and knowingly join the criminal venture with an intent to combine with others in violation of the law. He must, knowingly, promote the scheme or have some kind of a stake in its outcome. One may become a member of a conspiracy without knowing all the details or all of the operations of the conspiracy. One defendant may know only one other member. Yet, if he knowingly cooperates to further the illegal purpose of the conspiracy with knowledge that others have combined to violate the law, he becomes a member, although his own role may be rather insignificant.

If you find that a defendant did join a conspiracy, then he is bound by what others say and do to promote and further the venture, even though he, himself, is not present. This is so because each conspirator is the agent or partner of every other conspirator.

The third element of the crime of conspiracy is the commission by a conspirator of at least one overt act charged in the indictment in furtherance of the object of the conspiracy.

An overt act means an act by any member of the conspiracy in an effort to accomplish some purpose of it. The reason the law of conspiracy requires an overt act is because a person might agree to commit a crime and then change his mind or individuals may just simply sit around and talk about the commission of certain criminal ventures, but never take any step toward its completion. It may be foolish, their talk, but people should not be criminally charged because of making foolish and ridiculous plans which they

have no intention to carry out, so in order to find a person guilty of conspiracy, you must find that one of the overt acts charged, that some act was taken in order to complete the plan.

Therefore, before a defendant can be convicted of the crime of conspiracy, one or more of the conspirators must have taken at least one step or performed one single act which moved toward carrying out the unlawful intent to commit the crime. If those acts were performed by any member of the conspiracy, whether or not it is the defendant on trial, and the acts were performed during the existence of the conspiracy and in furtherance of it, then those acts are sufficient to satisfy the third element.

The Government is not required to prove that each of the overt acts as alleged were committed. It is enough that the Government prove beyond a reasonable doubt that at least one of the overt acts charged was committed in furtherance of the conspiracy by one or more member.

HO

of the conspiracy.

It may be that some of the acts charged, overt acts, did not occur exactly on the day they happened. It is enough if they occurred at or about the time as alleged in the indictment.

Under the law, the term obligations of the United States means Federal Reserve Notes of whatever denomination.

In this case, you will remember when we talked about the evidence coming in on conspiracy. It is important in your determination as to whether or not there is a conspiracy and whether Mr. Van Vleck knowingly became a member of it that you make that judgment from what he, Mr. Van Vleck, said or did, not by what others said or did outside of his presence.

In this case, you will recall the testimony, generally, of Mr. Mosca about his meetings, his conversations with Mr. Van Vleck. You will recall the testimony of Mrs. Czora about what she and Mr. Van Vleck talked about. If you find from that that there is a conspiracy and that

he was a member of it, then, as far as your determination of the other elements of the conspiracy, you may consider the testimony of others which was taken not in Mr. Van Vleck's presence because if you find that if he, knowingly, became a member, then hearsay statements made by others, - that is, statements made not in his presence, may be considered, but it is important for you in determining this, these questions, to take up the question first about whether there was a plan and whether Mr. Van Vleck knowingly became a member of the plan by what actions he took and by what statements he made in making your judgment in this regard.

It is important also that you keep in mind that at the time of these acts, that the defendant, that you find that these acts were taken willfully with a specific intent to violate the law, with a specific intent to defraud someone. This is an important consideration.

Ladies and gentlemen, I will ask you

to step into the corridor for a minute or so. At that time, I will listen to any further requests which the lawyers have to charge or any exceptions which they have to the charge which I have delivered to you. If you will step out with Mr. Hassett, please.

(Jury escorted from the courtroom.)

THE COURT: All right, Mr. Williams.

MR. WILLIAMS: I have no exceptions and no requests, your Honor.

THE COURT: Mr. Walsh.

MR. WALSH: I have no exceptions or requests.

(Jury returns to the courtroom.)

THE COURT: Will the Marshals step forward and be sworn, or Marshal, Mr. Hassett.

(One Deputy United States Marshal sworn as custodian of the jury.)

THE COURT: Mrs. Miller and Mr. Semmet, the law requires that we deliberate only

with twelve. We thank you for your readiness to be here with us and to help us in resolving the issues in this case, but I must now excuse you from further deliberation in this case and you may now step out with the Marshal and pick up your things and we will be in touch with you probably by telephone or note about your next time of service. Thank you.

(Two alternate jurors excused.)

THE COURT: Ladies and gentlemen, the case is now submitted to you. Mr. White will bring the exhibits down and a copy of the indictment and you can begin your deliberation when you go to the jury room.

We will now be in recess. You may walk out with the Marshal.

(Jury retires at 2:15 p.m. to commence its deliberation.)

THE COURT: Mr. Williams and Mr. Walsh, would

you remain just a minute with Mr. White so he can check the exhibit list and make sure it is in order.

We will be in recess.

(Recess taken at 2:16 p.m., pending deliberation of the jury.)

* * * * * * * *

PROCEEDINGS: May 6, 1976, 4:16 p.m.

APPEARANCES: As before noted.

(Defendant present.)

(Jury present.)

THE COURT: Ladies and gentlemen, the note from you reads "Clarification of Article 6". I take that to mean you would like me to give you some information or reread to you, perhaps, the charge about Count 6 in the indictment.

JUROR NO. 1: Right.

THE COURT: Is it Count 6 you are referring to? Do you think if I reread that portion of the charge that is concerned with Count 6,

that it may help you in your resolution of this problem? All right.

JUROR NO. 8: Can anybody answer?

THE COURT: Pardon?

JUROR NO. 8: Can anybody answer?

THE COURT: You have a foreman. Do you think that will help, or what is your problem?

JUROR NO. 11: What we would like is a little bit of clarification, your Honor, I believe, is the date involved in Count 6.

THE COURT: All right.

JUROR NO. 11: In this count, the grand jury charges on or about May 17th.

THE COURT: May 17th.

JUROR NO. 11: All of the witnesses that we heard testimony from, pinpointed the date of arrest as that date, it was the 17th of May, but it is to our knowledge where the approximately $175,000 in denominations were of tens and twenties that Mr. Van Vleck was not on the scene on that date.

THE COURT: All right. I think I see your problem. I hope I do. It is not necessary in an indictment, or it is not

1 necessary for the Government to prove
2 the exact date that events happened.
3 When you say "on or about May 17th", that
4 gives a little leeway one way or another.
5 The purpose of an indictment is to inform
6 a defendant of what the charge is that
7 is pending against him so that he can
8 prepare his defense.
9 As in most, - not all kinds of things
10 because there are many crimes that happen
11 or many acts which happen only on the
12 particular day in question, but in making
13 up your mind in this case about the
14 activities of Mr. Van Vleck, you can take
15 into account not only what occurred right
16 on the 17th of May, but also what happened
17 on the days leading up to the 17th of
18 May.
19 Certainly, it is your province
20 entirely to determine what happened, but
21 after you determine what happened in
22 this case here, I have told you, and
23 maybe I will just review it briefly with
24 you again, the elements of the crime
25 charged here, that the defendant attempted

to pass a counterfeit obligation or obligations of the United States on or about the 17th day of May and that the counterfeited obligations described in the indictment are about $175,000 in denominations of $10 and $20 counterfeit Federal Reserve Notes.

The Government has the obligation to prove beyond a reasonable doubt that the defendant knew at the time that the obligation or obligations were counterfeit.

Thirdly, they must prove beyond a reasonable doubt that he attempted to pass or sell the obligation willfully and for the purpose of defrauding someone. They must show that there was a specific intent on his part to violate the law and to defraud.

In this case, as far as the events here are concerned, Mr. Van Vleck is also charged with aiding and abetting. That is, one who aids, abets, counsels and so forth, induces or procures the commission of the material or the thing

charged in the indictment. In order to aid and abet another, it is necessary that the accused willfully associate himself in some way with the criminal venture and willfully participated in it as he would in something he wishes to bring about. That is to say that he willfully seek by some act or omission of his to make the criminal venture succeed.

Examples are bad, I know, but it is not necessary that a person be on the scene of an event to be found guilty of a crime because you, by the use of telephone, for example, you can counsel, command or induce someone to commit a criminal act who is in SanFrancisco. It is how much you bring to bear in the eventual completion of the act which is important. It is important that you know the essentials here and that you intend that the criminal act succeed. It would not be necessary that since you are here in Buffalo and, let us say, your partner is in San Francisco, it is not necessary that each and every act that the person

did there was one that you brought about, you know, whether they went to the bank by using an automobile or by using a trolley car or a taxi certainly should not make any difference, but if it is your action which brings about the completion of the criminal act, these other parts of it really do not count.

In this case here, it is up to you to determine what occurred. It is up to you to determine whether, under the charge, as I have given it to you, whether or not Mr. Van Vleck willfully with intent to defraud, did attempt to sell the counterfeited obligations described in the indictment on or about the 17th day of May. It is not necessary that the acts that he did occurred on the 17th of May only as long as they occurred on or about that time.

In these cases, the resolution of this is left to you. It is left to your good judgment, your common sense and always the difficulty is if the Court enters into this too much, then it takes

away the jury function so that I think that with this additional charge, it seems to me you should be able to go back to your jury room and continue with your deliberation. Mr. Foreman, if you do not think that that is the case, let me know. Do you think you can go back now and continue? I would suggest that you make an earnest effort to do it.

JUROR NO. 11: The only one other, your Honor, thing on this count was discussed is the fact of witnesses, that Mr. Van Vleck on this, if you want to call it on or about the 17th day of May, was more or less cut out of the so-called deal.

THE COURT: You see, whether or not that cut him out of criminal responsibility, that is your judgment to make.

JUROR NO. 11: No further.

THE COURT: All right. Very well. You may continue your deliberation.

(Jury retires at 4:30 p.m., to resume its deliberation.)

51

1 Q. All right, and did you see him frequently?
2 A. Yes.
3 Q. All right. Now, do you also know an individual by the
4 name of Edward Mosca or Eddie Mosca?
5 A. Yes, I do.
6 Q. All right. How long have you known Eddie Mosca?
7 A. Well, about the same.
8 Q. Okay, and how did you happen to meet him?
9 A. I met him through another friend, Pepe Cannizaro.
10 Q. Pepe Cannizaro, all right, and how long have you known
11 Pepe Cannizaro?
12 A. About fifteen or sixteen, - sixteen years.
13 Q. All right. Now, do you see in the courtroom the
14 individual that you knew or know as Peter Van Vleck?
15 A. Yes, I do.
16 Q. All right. Would you point him out for us, please.
17 A. Sitting next to Mr. Walsh.
18 Q. All right, wearing glasses?
19 A. Yes.
20 Q. All right. Mrs. Czora, in the spring of 1973 where
21 were you living?
22 A. 71 Fountain Park.
23 Q. All right. Is that in the Tonawanda area?
24 A. Yes.
25 Q. All right, and did you move out of there sometime around

Q. All right, and you said there was some solution?

A. Yes.

Q. All right. Did you then have any conversation with Mr. Van Vleck?

A. Yes, on how to treat the money.

Q. What did he say to you, if anything?

A. Put it in the solution and some water, dip it in there so that I could give it to Pepe.

Q. Is that Pepe Cannizaro?

A. Right.

Q. And did you ask him if you could do that or did he?

MR. WALSH: I am going to object to this as leading.

THE COURT: Overruled. Listen carefully to the question and only answer the question asked, Mrs. Czora. Listen carefully to the question. Mr. Williams.

MR. WILLIAMS: Yes. Thank you, your Honor.

BY MR. WILLIAMS:

Q. Who brought up the name Pepe at that time?

A. Well, Pepe had asked me, you know, to ask Peter for some.

MR. WALSH: I will object to that.

1 THE COURT: Overruled.

2

3 BY MR. WILLIAMS:

4 Q. Go ahead.

5 A. And I wanted to ask Peter if he could get some and he

6 said he would bring it to the house.

7 Q. You asked Peter if he could get some counterfeit money?

8 A. For Pepe.

9 Q. All right. Then what did you do with that money?

10 A. We treated it in the solution and gave it to Pepe.

11 Q. Now, when you say "We treated it", who treated it?

12 A. Me and Beverly Zoller and Peter.

13 Q. When you say "treated", do you mean you did something

14 with this solution?

15 A. Right.

16 Q. What did you do?

17 A. Put water in it and just dipped it in there.

18 Q. All right. Then what did you do with those bills?

19 A. Some of them I gave to Pepe.

20 Q. All right, and did you give it to him?

21 A. Well, after we paid for it.

22 Q. How much?

23 A. I don't remember the amount.

24

25 THE COURT: Mrs. Czora, please put your hand

1 back down, please. Sit up a little
2 closer. Now relax. Just speak in a
3 conversational tone. The jury is here
4 and all they want to do is listen to
5 what you have to say, but we have some
6 trouble outside. They are doing some
7 work outside. We are all having trouble
8 hearing you so if you would just take
9 your time and speak up, enunciate each
10 word carefully, listen to Mr. Williams'
11 question first and before you give an
12 answer, just take your time and speak it
13 out in deliberate fashion. I cannot
14 hear and I am sure some of the jurors
15 are having trouble. Very well, Mr.
16 Williams, please.
17
18 BY MR. WILLIAMS:
19 Q. Thank you, your Honor. Mrs. Czora, who determined what
20 price to charge for that counterfeit money?
21 A. Peter.
22 Q. And you don't remember what it was?
23 A. No, I don't.
24 Q. All right. Now, Mrs. Czora, do you recall being at the
25 Northtown Pharmacy on Sheridan Drive, near Sheridan, -

1 Sheridan Drive near the Boulevard sometime in the spring
2 of '73?
3 A. Yes, I do.
4 Q. All right. What happened there?
5 A. I had a twenty and I tried to buy some merchandise with
6 it, a counterfeit twenty, and the girl told me it was
7 counterfeit.
8 Q. And what did you do?
9 A. I ran out of the store.
10 Q. Where did you get that bill?
11 A. From Peter.
12 Q. Okay. Do you remember where you got it from him?
13 A. At the Turf Club.
14 Q. All right. The Turf Club is what, a bar or restaurant?
15 A. It is a bar on Delaware Avenue.
16 Q. All right. Is that in Kenmore?
17 A. Yes.
18 Q. Okay, and when did that take place in relation to Mr.
19 Van Vleck coming over to your place at 71 Fountain
20 Park; was that before or after that time?
21 A. That was before.
22 Q. All right. Now, Mrs. Czora, did there come a time when
23 you were introduced to somebody by the name of Joe
24 Marine?
25 A. Yes.

1 to this friend of Beverly's, his name was Joe Marine.
2 Q. All right. This is the one that you had met previously
3 at the Circle of Thieves and Sestak & McGuire's?
4 A. Right.
5 Q. Okay. All right, did you have any conversation with
6 Mr. Van Vleck about that?
7 A. Yes. He told me that we could pick it up at his house,
8 take him to his house and we could pick up the money
9 and he wanted $250 for it. I don't remember the exact
10 amount.
11 Q. All right. Did you then go to his house?
12 A. Yes.
13 Q. All right, and where was that at the time?
14 A. On Kenwood.
15 Q. Is that also in the Tonawanda area?
16 A. The next street.
17 Q. Pardon me?
18 A. The following street from, - by the next street to the
19 Turf Club.
20 Q. Oh, around the corner?
21 A. Around the corner.
22 Q. Now, after, - all right. Now, as I understand, after
23 that you saw Joe Marine at Two Guys?
24 A. Yes.
25 Q. Then did you have any conversation with Joe Marine at

1 Q. Now, on the occasion that you recited here that the
2 defendant came to your home and brought this counterfeit
3 money and also some solution and gave you some instruc-
4 tions on what to do, your friend Beverly was present
5 all through this, wasn't she?
6 A. Yes.
7 Q. How long had you known Beverly, Mrs. Zoller?
8 A. Maybe a year or two, about a year.
9 Q. And she was the girl who worked at Two Guys?
10 A. Right.
11 Q. But you were very close with her; you said she was
12 there all the time at 71 Fountain Park?
13 A. Yes. She was very close to me.
14 Q. She would be there every day you would see her?
15 A. Right.
16 Q. Did she stay there sometimes?
17 A. Sometimes.
18 Q. Now, as far as running into Van Vleck at the Turf Club,
19 that wasn't unusual, was it?
20 A. No.
21 Q. It would be unusual if you went to the Turf Club and
22 didn't find Van Vleck, isn't that so?
23 A. Right.
24 Q. Now, Mr. Williams showed you Government's Exhibit Number
25 11 for identification and asked you about it.

1 Sebiak & McGuire's that night?

2 A. Yes.

3 Q. Or that morning?

4 A. Yes.

5 Q. All right. About what time was it you left?

6 A. It was approximately 2:00 a.m.

7 Q. Now, how did the conversation end?

8 A. The conversation ended with Lorraine instructing me

9 to go to the Cavalier Motor Lodge that next, - well, it

10 would be the same day at 11:00 a.m. and that at that

11 time --

12 Q. Did you then go there at 11:00 a.m.?

13 A. Yes, I did.

14 Q. What happened there?

15 A. I went there 11:00 o'clock and at that time there was

16 delivered to me approximately $1,170 in counterfeit

17 ten and twenty denomination notes.

18 Q. All right. Who delivered that to you?

19 A. Beverly delivered it.

20 Q. Okay. What did you do after you got that money?

21 A. Well, I was also instructed at that time that Lorraine

22 would be at Two Guys Department Store later that

23 afternoon and I should meet her there.

24 Q. Who told you that?

25 A. Beverly.

1 Q. Now, did you then go to Two Guys Department Store later
2 that afternoon?
3 A. Yes, I did.
4 Q. What time did you arrive there?
5 A. It was approximately 2:30 in the afternoon.
6 Q. All right. Did you see anyone there?
7 A. Yes.
8 Q. Who?
9 A. Lorraine Czora.
10 Q. All right. Did you have a conversation with her?
11 A. Yes. At that time we re-examined the counterfeit
12 currency which had been delivered to me earlier, at
13 which time Lorraine showed me various ways of treating
14 the money so it looks more genuine, is more easily
15 passed and at that time I delivered to her the $250 in
16 genuine currency.
17 Q. All right. Was that $250 in genuine currency contained
18 in any envelope container of any kind?
19 A. My present recollection I don't believe it was, no.
20 Q. Mr. Ebert, let me now show you what is marked as
21 Government Exhibit Number 5 for identification, sir,
22 and I ask you to take a look at the contents of that.
23 A. This is the counterfeit currency which I received that
24 day which has my initials and date on it.
25 Q. And what date is on there?

Q. Where did you get the paper to print that money, do you know?

A. Eddie went to Rochester and bought it.

Q. Do you remember when he did that?

A. It was on the Tuesday of that week, the 19th or 20th.

Q. All right. Did he tell you that?

A. Yes.

MR. WILLIAMS: Thank you. I have no more questions.

THE COURT: I think we will take a recess now, ladies and gentlemen, about maybe ten minutes and we will return and continue. You may go out with the Marshal. Keep in mind my instruction. We will be in recess.

(Recess taken at 3:18 p.m.)

* * * * * * * * * * * * *

BY MR. WILLIAMS:

Q. Thank you. Did there come a time when he agreed?

A. Yes.

Q. All right. About when was that, do you recall?

A. The middle of February, second or third week of February.

Q. Did you communicate that fact to anyone?

A. Yes, I told Peter.

Q. You told him what?

A. That my partner would be willing to do the photography end of the job.

Q. And did you have to obtain some materials to do that work?

A. Yes, paper.

Q. All right. Did you obtain the paper?

A. Yes, we did.

Q. Do you remember when you did that?

A. About February 20th, 21st, somewhere around there. February 20th or 22nd, it was around there.

Q. Where did you obtain the paper?

A. In Rochester, New York, at a paper distribution house.

Q. All right. Do you remember the name of the paper distribution house?

A. Alling and Cory.

Q. How did you get there?

A. Drove.

Q. In whose car?

A. In my car.

Q. Did anybody go with you?

A. Yes.

Q. Who was that?

A. Mr. Van Vleck.

Q. And then you came back to Buffalo?

A. Yes.

Q. What did you do when you got back to Buffalo?

A. Put the carton of paper in the back room of the shop and that was on a Tuesday and Thursday we completed the job.

Q. Well, when you say "we", who completed the job?

A. That was my partner, Mr. Gates and I.

Q. What did Mr. Gates do?

A. Photographed and made negatives and offset plates for printing.

Q. Who did the printing?

A. I did.

Q. Do you recall how much you printed?

A. In the neighborhood of $200,000, in that neighborhood.

Q. Of what denominations?

A. $10 bills and $20 bills.

Q. Did you then cut the money?

11

the Government's evidence in the case and we will proceed, I understand that Mr. Walsh has a witness or two and then we will go from that summation and charge. I know you will listen as carefully to Mr. Walsh's witnesses as you did the Government.

Mr. Walsh.

R I C H A R D B U C K (376 E. Dyke, Wellsville, New York), a witness called by and in behalf of the defendant, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION BY MR. WALSH:

THE COURT: Mr. Walsh.

BY MR. WALSH:

Q. Thank you. Your name is Richard R. Buck?

A. Yes, sir.

Q. And you live at 376 E. Dyke Street in Wellsville, New York, is that right?

A. Yes, sir.

Q. How old are you, Mr. Buck?

A. Thirty-nine.

Q. And where were you born, here in Buffalo?

A. I was born in Buffalo, yes.

Q. You are married, are you?

A. Yes, I am.

Q. And how long have you been married?

A. Sixteen years.

Q. You and your wife reside at that address you just gave in Wellsville?

A. Yes, we do.

Q. Do you own that home?

A. Well, there is a mortgage. I am buying it.

Q. Do you have children?

A. Six.

Q. And what are their ages?

A. Fourteen to three, twins at three. I have a boy nine, a daughter will be fifteen and another daughter twelve and another nine.

Q. I see, and are you employed there in Wellsville?

A. Yes, I am, at the Wellsville newspaper.

Q. What is the name of it?

A. Wellsville Daily Reporter.

Q. If Mr. Knisley can't hear you possibly some of the jurors can't hear you so you speak up so you can be heard, please. How long have you been employed by them?

A. Approximately five years.

Q. And what are your duties there?

1 A. I am a printer.

2 Q. Now, Mr. Buck, do you know a man by the name of

3 Edward Mosca?

4 A. Yes, I do.

5 Q. How long have you known Mr. Mosca?

6 A. Ten, eleven years.

7 Q. And do you know him, - how did you know him?

8 A. We were both printers and I did work for the company

9 he worked for and he would lay out the camera and stuff

10 like that and also socially we used to go out together.

11 Q. What company were you working for?

12 A. Kenton Printing in Kenmore, New York.

13 Q. And what year is this?

14 A. Oh, well, it would be ten, eleven years ago, '65, when

15 I first met Eddie.

16 Q. And for whom was he working?

17 A. Keyser Beauty Supply on Elm Street in Buffalo.

18 Q. Did Keyser Beauty Supply do business with your employer,

19 Kenton?

20 A. Yes, they did.

21 Q. Is that where you were employed, Kenton?

22 A. Yes.

23 Q. What is the name on it?

24 A. Kenton Printing.

25 Q. Where was that located?

A. In Kenmore, New York.

Q. Did there come a time when you and Mr. Mosca embarked on an enterprise of your own?

A. Yes, there was.

Q. And what did you do?

A. Made counterfeit money, tens and twenties, as a matter of fact, a great quantity of it.

Q. And where would you make that?

A. It was made at Kenton Printing.

MR. WILLIAMS: Excuse me, your Honor.

THE WITNESS: In 1965.

MR. WILLIAMS: I wonder if perhaps we could have a sidebar?

THE COURT: Mr. Walsh, will you come over, and Mr. Knisley.

Perhaps it would be easier, ladies and gentlemen, if you would walk into the corridor and maybe we can talk a little easier. This may take a little talking out with the lawyers to determine what we are about here.

(Jury escorted from the courtroom.)

THE COURT: All right. Evidently Mr. Mosca and

15

Mr. Buck printed some counterfeit money and what is going to happen now? What is the theory of this, Mr. Walsh?

MR. WALSH: Well, the thrust of it is that Mr. Mosca has taken the stand and testified here that he is into this situation only because of the constant importunities of Mr. Van Vleck; that he has led a circumspect life; he has been in the printing business since he left high school up until this point in 1973 for some 16 years; he knows nothing about anything such as counterfeit money and wouldn't be here, he was awfully sorry he heard about it; there was a constant pushing at him by Buck that brought him into this situation.

THE COURT: By Mr. Van Vleck.

MR. WALSH: By Van Vleck, that brought him into this situation.

THE COURT: Mr. Williams, we did not hear the time. What time was this?

MR. WALSH: Around 1965.

THE WITNESS: '65 and '66.

THE COURT: All right.

MR. WILLIAMS: I think really three things, your

Honor. Number 1, this witness is talking about his own involvement in criminal activity. I just wonder if he realizes - -

THE COURT: Some years ago.

MR. WILLIAMS: Without the statute of limitations. Secondly, what we are talking about is an attempt to impeach the Government's witness, Mosca by not prior inconsistent statements or prior convictions but apparently - -

THE COURT: I think it goes right to the heart of it. Mosca, his claim and the way he left it with the jury is, "Ladies and gentlemen, the only reason I got into this business was because Mr. Van Vleck talked me into it", and I think that this is essential that the jury find out about Mosca and how this thing got going because at the end of it, you see, it is clear that Mosca and Czora, they are making arrangements where they leave Van Vleck out of it entirely. We have had Mr. Mosca tell us about many, many conversations, that the only people would know about it would be Van Vleck and Mosca and all about

this, "It's coming, it's coming, the man is coming with the money".

MR. WILLIAMS: All right.

THE COURT: The jury should know about Mosca's prior history of dealing in counterfeit, to judge whether or not that testimony is believable or not because if it is believable it strikes a hard blow against Mr. Van Vleck. On the other hand, if Mr. Mosca had a lot of experience in dealing in counterfeit obligations and whether or not he is testifying here to save his own skin, is certainly important. Frankly, Mr. Williams, I think this is something the Government should have known about and, Number 1, if you knew that Mosca was involved in counterfeit obligations before, I believe the Government of the United States has the obligation of making sure that that is out on the table.

MR. WILLIAMS: I agree.

THE COURT: All right. If you did not know, I think you ought to have known about Mosca's prior involvement here, so as far as I am

1 concerned, we are going to hear about it.
2 Have the jury return. Do you want to put
3 something else on record?
4 MR. WILLIAMS: No. I just object to trying to
5 impeach a witness with some prior bad
6 acts as opposed to convictions.
7 THE COURT: It is essential to this case. Call
8 the jury, pleas
9
10 (Jury returns to the courtroom.)
11
12 THE COURT: Mr. Walsh, you may continue.
13
14 BY MR. WALSH:
15 Q. And when was the counterfeit tens and twenties made
16 at Kenton Printing?
17 A. In 1965 or '66.
18 Q. You were employed at Kenton?
19 A. Yes, I was.
20 Q. And he, Mosca, at Keyser?
21 A. Yes.
22 Q. Was Mosca in the printing business at that time?
23 A. They had a press but they had no camera and I would do
24 their catalog camera work for them and layout.
25 Q. Had Mosca previously been engaged in the printing business?

1 A. I understand that he had worked at Loblaws as a printer.

2 Q. You didn't know him at that time?

3 A. No, I didn't know him.

4 Q. You met him at Keyser?

5 A. I met him at Kenton, while he was with Keyser.

6 Q. Yes, and how often did you print counterfeit money,

7 you and Mosca?

8 A. Just once.

9 Q. Well, over how long a period of time?

10 A. Well, it took a few days. Oh, probably four or five

11 days to do it.

12 Q. And where did you do this?

13 A. At Kenton.

14 Q. Did you work other places on the money?

15 A. Aging and dying we did at both his house and mine. We

16 didn't never did get it all done, as a matter of fact.

17 There was a quantity of it that still was white form,

18 sheet form.

19 Q. And you used Kenton facilities at night after their

20 regular business hours?

21 A. Yes, I did.

22 Q. Would Mosca come there?

23 A. Yes.

24 Q. Now, did there come a time later on when you were

25 arrested and charged with the possession and manufacturing

of that very paper that you and Mosca had made?

A. Yes, there was, in 1966, I believe it was, in Lapalooses Louisiana.

Q. Were you arrested?

A. Yes, I was.

Q. And you were charged with a Federal crime?

A. Yes.

Q. Of possessing and-- -

A. Manufacturing, and I was sentenced in Lafayette, Louisian

Q. Before you were sentenced, did there come a time when you pled not guilty to the charge down there?

A. Yes, there was, immediately.

Q. And what happened then?

A. Well, I got bail and I came back east.

Q. How did you get the bail? Tell us about it.

A. My wife and sister and brother-in-law came down to post the bail.

Q. And you came back up here. Were you living in Wellsville at that time?

A. I was living in Galeton, Pennsylvania. Actually, I wasn't living there but we were staying with my wife's folks.

Q. Were you working at that time?

A. I started working. I went for the Potter Press, the Coudersport Enterprise.

1 Q. Did there come a time you went back down to Lafayette,
2 Louisiana, to the Federal District Court?
3 A. I had to make a number of appearances and I had to go
4 down for a plea, which I pled not guilty, and then I
5 had to return again. We were going to start the trial,
6 at which time I changed my plea to guilty and subsequently
7 I was let, - still released on bail and I came back
8 home and waited for notice to come down for sentencing.
9 Q. And did you get a notice to be sentenced?
10 A. Yes, I did.
11 Q. Now, when you got that notice to be sentenced, you
12 received that registered mail at your home, and where
13 were you living then?
14 A. Galeton, Galeton, Pennsylvania.
15 Q. Working for the Coudersport Press?
16 A. Yes.
17 Q. What did you do at that time?
18 A. Well, I made arrangements to attend. I called Eddie
19 and he met me in Wellsville at the Faucet Hotel.
20 Q. Where was Eddie then?
21 A. He was in Buffalo. He was living in Buffalo, still.
22 Q. And did he come to Wellsville?
23 A. Yes, he came to Wellsville.
24 Q. Did he come alone?
25 A. He came with Mike Gates.

Q. Was Gates his partner in the printing business at that time?

A. No, he wasn't.

Q. But Gates accompanied him to Wellsville?

A. Yes.

Q. And did you meet him there?

A. At the Wellsville Hotel. I was with my wife and mother again. I was going away and I was seeing the folks there. My wife, I can't say she had resigned herself to the fact, but anyway, I came back up to Buffalo with Eddie.

Q. And Gates?

A. And Gates, and we stopped by Gates' house, dropped him off. I couldn't even tell you where that is now, at this point, and then Eddie and I come uptown and had dinner, went over and had a drink at the bus station.

Q. Where did you have dinner?

A. At the Chicken Chalet, as a matter of fact.

Q. On Main Street?

A. Yes.

Q. Where did you get the bus?

A. Greyhound, had a couple of drinks in the barroom and that's the last time I saw Eddie, when I got on the bus.

Q. Did you ever see him again?

A. Never seen him since.

23

1 Q. Have you talked to him since?

2 A. Yes, I have.

3 Q. When did you talk to him?

4 A. About three years ago. My sister died in Tonawanda and

5 I was in town and I called him and thought we could get

6 together and talk or whatever. My wife and I - -

7 Q. Did you get together?

8 A. No, he never showed up, he never came.

9 Q. All right. Now, you then went down to Lafayette,

10 Louisiana for sentence in the Federal District Court?

11 A. Yes, I did.

12 Q. What happened to you there?

13 A. I was sentenced to six years on one Count and five years

14 probation on the other Count.

15 Q. And did you go to prison?

16 A. I went to Atlanta Federal Penitentiary.

17 Q. How much time did you spend there?

18 A. Approximately twenty-two months.

19 Q. And then what happened?

20 A. I was paroled in 1970 to Galeton, Pennsylvania, where I

21 went back to work on the Potter Enterprise.

22 Q. Now, was that the same outfit in Coudersport that you

23 were working for at the time you left to go down to

24 be sentenced?

25 A. Yes, I was.

1 Q. In other words, you were paroled by the Federal Govern-
2 ment back that very same firm?
3 A. Yes, I was.
4 Q. And did you continue to work for them there?
5 A. For little better than a year and then I had a better
6 job, an offer for a better job at the Wellsville newspaper,
7 a little bit bigger city and more opportunity. When I
8 came out of jail I didn't have nothing and four kids.
9 Q. Are you still working there now?
10 A. Yes, I am.
11 Q. Does your employer know that you are here in the Federal
12 District Court in Buffalo this morning?
13 A. No, he doesn't.
14 Q. You are here under subpoena?
15 A. Yes, I am.
16 Q. And you had conversation with me about that, didn't you?
17 A. Yes, I did.
18 Q. Was Mosca apprehended or spend any time or charged in
19 this particular crime that you have related?
20 A. No, he wasn't.
21 MR. WALSH: I believe you may ask.
22
23 CROSS EXAMINATION BY MR. WILLIAMS:
24 Q. Thank you. Mr. Buck, do you know Mr. Van Vleck?
25 A. Yes, I do.

1 Q. How long have you known him?
2 A. About twenty years.
3 Q. And what is your relationship with, - strike that. How
4 did you come to know Mr. Van Vleck?
5 A. We went to school together
6 THE COURT: Excuse me, Mr. Williams. I think
7 before we go further, ladies and gentle-
8 men, - now, we are having visitors, but,
9 Mr. Hassett, could you have the jury step
10 into the corridor just a minute again,
11 please. Could our visitors come in and
12 be comfortable, please.
13
14 (Jury escorted from the courtroom.)
15
16 THE COURT: Mr. Buck, I am sure that you know
17 there are certain rules we go by here
18 and I took this break in an exercise of
19 caution. I do not know what questions
20 Mr. Williams is going to put to you. One
21 thing I know is that you are here today
22 and you want to testify and go back, you
23 want to give the facts as well as you can
24 and not come back again in this case.
25 THE WITNESS: That's true, that's true.

THE COURT: It is important, and you may not know this and maybe you do know, but it is important that you know, that under the rules, generally, - there may be exceptions, but under the rules we cannot talk about the fact that he was, unless Mr. Van Vleck takes the stand, other witness cannot talk about the fact that he was arrested previously; that he was charged with any counterfeit dealings previously. Sometimes, and that is why I interrupted quickly, because questions like "When did you meet Mr. Van Vleck before", may get a response, "I met him when he was arrested in 1942" or something, you know?

THE WITNESS: Yes.

THE COURT: That would be disasterous to our proceeding here and it would mean that we would have to have another trial, you would have to come back again. Mr. Williams, I trust that your questions will not be couched in this respect.

MR. WILLIAMS: Well, no. I don't know what questions I am going to ask but certainly I - -

THE COURT: You have the obligation here. That was exactly the same kind of question you asked last time when we had Mrs. Czora on the stand and she said, "I met him first when he was arrested". Evidently that is when people meet Mr. Van Vleck which may be of interest to us but it certainly cannot be of any interest to the jury at all.

MR. WILLIAMS: I agree. I know that.

THE COURT: You cannot talk about, as far as any involvement before with counterfeits, unless and if you feel that you cannot answer without talking about Mr. Czora's involvement with counterfeit obligations before. Please look to me for advice. Just say "Judge, could I talk to you about that".

MR. WALSH: Excuse me, your Honor. You inadvertently said "Czora". You mean "Van Vleck".

THE COURT: I mean Van Vleck, so do not talk about arrests or dealing in counterfeit as far as Mr. Van Vleck. Can you tell us generally what you want? I suppose one area here, it would seem to me obvious, is that Mr. Buck said that Mosca was his

accomplice in this business but that Mosca was never charged and you wanted to bring that out.

MR. WILLIAMS: Yes, that is one area. The other area is whether he knows Mr. Van Vleck and how long.

THE COURT: Mr. Walsh, - there was nothing said about Van Vleck on direct examination at all.

MR. WALSH: That's right. I think we should stay away from it.

THE COURT: What difference does it make whether he has known Van Vleck for 20 years or 30 years? He did not testify about Van Vleck.

MR. WILLIAMS: I agree, but again from the jury's point of view in evaluating his credibility.

THE COURT: Whose credibility?

MR. WILLIAMS: The witness' credibility.

THE COURT: The fact that he knew Van Vleck in one way or another?

MR. WILLIAMS: Well, if he is associated with a party to the lawsuit, if he knows a party to the lawsuit well.

THE COURT: Whether he was friendly with Van Vleck?

1 MR. WILLIAMS: Sure.

2 THE COURT: Did you see Van Vleck in any regular

3 fashion?

4 THE WITNESS: I would just as soon not be here

5 in Buffalo, to tell the truth.

6 THE COURT: I understand that, Mr. Buck.

7 THE WITNESS: No, I don't.

8 THE COURT: Before you came here to testify,

9 when was the last time you saw Mr. Van

10 Vleck?

11 THE WITNESS: When they called me up, Mr. Walsh

12 or Mr. Van Vleck called me to talk to

13 me and explain what was happening.

14 THE COURT: Outside of that, in the last three

15 years have you met him socially?

16 THE WITNESS: No.

17 THE COURT: Do you come to Buffalo to visit him?

18 THE WITNESS: No.

19 THE COURT: Has he come down to visit you?

20 THE WITNESS: No.

21 THE COURT: You live in the Wellsville area.

22 Does he come down there to visit you?

23 THE WITNESS: No. In 1970 when I got out, I just

24 completely disassociated myself with

25 anything prior.

THE COURT: In 1970, when you returned to the Western New York area?

THE WITNESS: Well, Pennsylvania, actually.

THE COURT: Yes. Did you see Van Vleck then?

THE WITNESS: No, I haven't.

THE COURT: All right. Between the period of 1966 to 1970, this was the period you say that you and Mr. Mosca got into this enterprise and then you were arrested in Louisiana - -

THE WITNESS: In '68.

THE COURT: Of course, there was sometime for the court proceeding to go ahead.

THE WITNESS: '70 I got out. '68 I was sent away.

THE COURT: From 1966 to the 1970 area, did you see Mr. Van Vleck during that period of time?

THE WITNESS: From '66 to about '68.

THE COURT: Of course, you were in jail for 22 months. You didn't see him then.

THE WITNESS: I haven't seen Peter since 1968.

THE COURT: What was the occasion when you saw him?

THE WITNESS: When I come up here.

THE COURT: When you what?

1 THE WITNESS: When I came up here.

2 THE COURT: That is when you told us about

3 getting the bus?

4 THE WITNESS: No, no. I didn't even see him that

5 day at all. The only one I saw was Gates

6 and Eddie Mosca.

7 THE COURT: You say when you came up here in

8 1968.

9 THE WITNESS: No, when I came up here just recently

10 to talk to Mr. Walsh.

11 THE COURT: As I understand it, you didn't see

12 him at all - -

13 THE WITNESS: For eight years.

14 THE COURT: When was the last time you saw him

15 before?

16 THE WITNESS: Eight years ago.

17 THE COURT: When?

18 THE WITNESS: In 1968.

19 THE COURT: All right. Where did you see him

20 in 1968?

21 THE WITNESS: I believe it was a tavern someplace.

22 THE COURT: Did you see him in a regular fashion

23 at that time?

24 THE WITNESS: No. I was working in Pennsylvania

25 and I would come up if I had to go to

Louisiana, I would maybe come up and spend the night and then get on the bus and take off.

THE COURT: Did you meet him with Mosca then?

THE WITNESS: I can't really recall. I think I did.

THE COURT: What was your connection with Mr. Van Vleck before that time?

THE WITNESS: Well, he was involved in the money also.

THE COURT: He was involved in money also. Did you have any other association with him besides that?

THE WITNESS: Socially, we were friendly. I had known him most of his life.

THE COURT: Were you ever in business with him?

THE WITNESS: No.

THE COURT: When you say you knew him socially, you would have some beer together once in awhile; you and he frequented the same taverns together?

THE WITNESS: Yes.

THE COURT: What were the names of some of the places?

THE WITNESS: Flo's Steak Club and what was that

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1 place on Delaware, I can't remember half
2 of them.
3 MR. WILLIAMS: Flo's Turf Club, was that one of
4 the places?
5 THE WITNESS: Flo's Steak House on Delaware and
6 Tacoma.
7 THE COURT: This was before Flo's Turf Club. Mr.
8 Buck, you say that you knew that Mr. Van
9 Vleck was involved with bad money?
10 THE WITNESS: With me.
11 THE COURT: With you?
12 THE WITNESS: Yes.
13 THE COURT: All right. When was that?
14 THE WITNESS: In 1968.
15 THE COURT: Was this in the same enterprise that
16 you were involved with Mosca?
17 THE WITNESS: Yes sir, the same enterprise.
18 THE COURT: The same business, right?
19 THE WITNESS: Yes.
20 THE COURT: That is the point that I am trying
21 to get at. He was at about the same time,
22 he was arrested in the same business that
23 you were in?
24 THE WITNESS: Right, right.
25 THE COURT: The same money?

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THE WITNESS: Same money.

THE COURT: That you claim you and Mosca made?

THE WITNESS: Right.

THE COURT: All right. Was he with you in Louisiana?

THE WITNESS: No, Dale Green was.

THE COURT: All right. You printed the money and Van Vleck and some others were disti-buting it and you were distributing it too, right?

THE WITNESS: Yes.

THE COURT: What role did Mr. Mosca have in all this?

THE WITNESS: He helped me print it.

THE COURT: He helped you print it?

THE WITNESS: He had, - you know, he was passing also and everything.

THE COURT: Since 1968 you have not seen Van Vleck at all?

THE WITNESS: No.

THE COURT: Did you and he go to Atlanta? Was he in Atlanta?

THE WITNESS: I believe he went to Lewisberg.

THE COURT: Did you see him when he was incarcerated

THE WITNESS; I haven't seen him since 1968.

THE COURT: Are you rel ed in any way?

THE WITNESS: No way.

THE COURT: Mr. Williams, I just think you are getting on dangerous ground when you ask questions like, "How did you know him", because the only way Mr. Buck knew him was through this prior counterfeiting scheme which the record, the files on this are still down there in your file drawers. Have the jury come back but do not talk about any arrests or do not talk about that prior enterprise. Have the jury come back, please.

(Jury returns to the courtroom.)

BY MR. WILLIAMS:

Q. Now, Mr. Buck, you know Mr. Van Vleck socially, correct?

A. Yes, sir.

Q. All right. You used to see him quite frequently?

A. Years ago.

Q. All right. Up until about, you said, 1963?

A. Yes.

Q. Now, you talked about printing this counterfeit money. As I understand, it was back in '66 or '65?

1 A. A.65 and '66, around there.

2 Q. And this was done at a place called Kenton?

3 A. Printing, right.

4 Q. That is where you worked?

5 A. Yes.

6 Q. Did you have any interest in that, in Kenton Printing?

7 A. No. I was just an employee.

8 Q. All right, and Mr. Mosca was working where?

9 A. Keyser Beauty Supply.

10 Q. You said you did this sometime when, in the evening hours?

11 A. Yes.

12 Q. He came to your place?

13 A. Yes.

14 Q. You didn't go over there?

15 A. To where?

16 Q. You didn't go over to his place?

17 A. No.

18 Q. Then you were arrested in possession of some of this

19 counterfeit money?

20 A. Yes, I was.

21 Q. How much?

22 A. About a quarter of a million dollars worth.

23 Q. How much?

24 A. Two hundred forty some thousand, I guess it was.

25 Q. And that you had where, down someplace in Louisiana?

A. I was apprehended in Lapalooses, Louisiana.

Q. You took all the money?

A. No. There was still some up here in Buffalo.

Q. How do you know that?

THE COURT: Mr. Williams, Mr. Buck came in here to testify about an occasion, his connection with Mr. Mosca so why don't you ask him about that? Did Mr. Mosca have any of the money?

THE WITNESS: I believe he did.

THE COURT: Do not say unless you are sure.

THE WITNESS: He did.

THE COURT: Mr. Williams.

BY MR. WILLIAMS:

Q. After you went down to Louisiana?

A. Yes.

Q. All right, and you were convicted as a result of this?

A. Yes, I was.

MR. WILLIAMS: I have no more questions.

THE COURT: Anything else, Mr. Walsh?

MR WALSH: No, your Honor.

THE COURT: Thank you, Mr. Buck.

THE WITNESS: Okay.

THE COURT: Next witness, please, Mr. Walsh.

MR. WALSH: That is all I have.

THE COURT: Defense rests. Do you rest?

MR. WALSH: Yes, your Honor.

THE COURT: Is there any rebuttal, Mr. Williams?

MR. WILLIAMS: Could we approach the bench?

THE COURT: Ladies and gentlemen, I will have to take, - the rules provide that I have to take care of some things with the lawyers now so if you will go downstairs for a few minutes, we will have you back soon and continue.

(Jury escorted from the courtroom.)

THE COURT: First of all, Mr. Walsh, you have motions to make. I take it you want to renew the motions made at the end of the people's case.

MR. WALSH: I so renew them now at this time.

THE COURT: My ruling is the same. I will deny the motions.

MR. WILLIAMS: On the question of rebuttal, your Honor, quite frankly this caught me by surprise. I have nothing by the way of conversation with secret service agents

or Mosca or the file that we had on Van Vleck going back to 1968 that gave any indication of Mosca's involvement.

THE COURT: Mr. Williams, please do not make that argument because it is obvious that in the prior Van Vleck file you and I know that all of this is all out in the record and it certainly should have been, - you could very quickly, - we have had the testimony of Mr. Buck, the fact that he was going to be here may have been a surprise to you but I think in preparation, that you certainly should have reviewed what happened before with Van Vleck. I see no reason for any continuance. I think we should now have the jury back within a reasonable time and have our summations. You will go first. It is ten after 11:00. When do you want to proceed, fifteen, twenty minutes?

MR. WILLIAMS: Twenty minutes would be fine.

THE COURT: Start at 11:30. How long do you think you will be?

MR. WILLIAMS: I would say probably half an hour.

THE COURT: Mr. Walsh?

MR. WALSH: Ten minutes.

THE COURT: Maybe we would put this on. We have the requests here the Government has made, Mr. Walsh. Do you have any comments on any of them?

MR. WALSH: Requests to charge?

THE COURT: Right. It seems to me that the requests as I have seen them are standard, there is nothing unusual about them.

MR. WALSH: He dropped these in my lap this morning.

THE COURT: Why don't we do this, Mr. Walsh, if at 11:30, once you review them, why don't you tell Mr. White if you believe that there is an objection you want to make to any one of them. Certainly in addition to this I would charge on the things that are always charged, reasonable doubt, credibility of witnesses, testimony of individuals such as Mosca, Czora, who are accomplices, as a matter of law and their testimony must be considered with great care and caution and other things that you can expect, but if you believe any of these requests are not in order, let me

1 know at 11:30.

2 MR. WALSH: Thank you.

3 THE COURT: All right, very well. We will be

4 in recess until that time.

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6 (Recess taken at 11:12 a.m.)

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ATTACHMENT 2

File No. _____

City of Buffalo

County of Erie

State of New York

MICHAEL J. GATES, being first duly sworn according to law, deposes and says:

I have been advised by Special Agent Samuel J. Zona

United States Secret Service, that under the provisions of the Constitution I cannot be compelled to be a witness against myself; and knowing that anything I may say may be used against me, I wish to make the following statement of my own free will and accord, without coercion or threat, and without promise of immunity. This statement is a voluntary act on my part, prompted by my desire to tell the facts, and I do not expect to gain any reward or special consideration by reason of having made this statement. I have been advised of my right to consult an attorney, and to consult with any other individual. I understand that I have the right to have an attorney present, and if unable to afford an attorney, one will be appointed for me prior to any questioning.

In February of 1973, I was approached by my partner, Eddy Mosca to shoot the negatives for counterfeit money. After several days, I shot the negatives for $10 and $20 Federal Reserve Notes at the printing place on 808 Main Street, Buffalo, New York. I stripped them and burned the plates. Sometime during that time, Eddy printed in the backroom. I was there at the time. I don't know how much there was. I never passed it nor touched it. I never have seen any of the people that he was involved with. He told me that something was going to happen in regards to the counterfeit money on Thursday, May 17, 1973. I was told that on this date.

A man who I never saw came in about 5:00 p.m. and he walked to the back of the store with Eddy. I was working at a table and I didn't talk to him. I didn't meet him. Right after this I was arrested. I have not seen the money since February. I destroyed the negatives and plates myself on the day of the printing.

I knew what I was doing was wrong. I was not forced or pressured into this.

WITNESS _____ SIGNATURE _____

WITNESS _____ DATE 5/17/73

File No. _____

ATTACHMENT #1

√ nice

City of Buffalo

County of Erie

State of New York

Mr. Edward J. Mosca, being first duly sworn according to law, deposes and says:

I have been advised by Special Agent ROBERT POCHOPIN

United States Secret Service, that under the provisions of the Constitution I cannot be compelled to be a witness against myself; and knowing that anything I may say may be used against me, I wish to make the following statement of my own free will and accord, without coercion or threat, and without promise of immunity. This statement is a voluntary act on my part, prompted by my desire to tell the facts, and I do not expect to gain any reward or special consideration by reason of having made this statement. I have been advised of my right to consult an attorney, and to consult with any other individual. I understand that I have the right to have an attorney present, and if unable to afford an attorney, one will be appointed for me prior to any questioning.

I, Edward James Mosca, live at 116 Turner, Buffalo, New York (823-4610). I am in partnership with Mike Gates. We operate a business known as United Offset Press Services located at 808 Main Street, Buffalo, New York.

During the later part of February 1973, I was in a bar on Hertel Avenue in Buffalo, New York, and I was approached by one Peter Van Vleck, his knowing that I was a printer. At this time, Van Vleck brought up the idea of printing counterfeit currency since he knew I was in need of money.

I advised Van Vleck that I was not interested. After that meeting, Van Vleck contacted me several times regarding the printing of counterfeit currency until I finally agreed with him to produce or manufacture counterfeit currency. Van Vleck then advised that he did have a buyer for the counterfeit currency and that both of us could make money on the deal.

Sometime in March 1973, I went to Alling-Cory Paper Company, Rochester, New York, and purchased a carton of approximately 1000 sheets of 22" by 34" rag content paper. I then transported this paper back to Buffalo in my privately owned 1970 gold, black top roof, Buick LeSabre, New York License No. 581ERW, registered to Collette Mosca.

Signature Edward J. Mosca 5-17-73

Once back in Buffalo, I then discussed the plan of printing counterfeit currency with my partner, Mike Gates. A few days later, we began making the negatives, plates, and then began printing the counterfeit currency. About two days later, we had completed manufacturing approximately $200,000 in counterfeit $10 and $20 FRN's. We then placed the counterfeit currency in a cardboard box and sealed it and put it in the cellar of United Offset Press Services.

Van Vleck had contacted me several times after advising me to sit tight until he could find some buyers for this counterfeit currency. About a month later, Van Vleck again contacted me and at this time, I gave him approximately $2,500 in $10 FRN's and $20 FRN's. Van Vleck contacted me several times advising me that the deal was about to be consumated, but his buyer never appeared.

On May 16, 1973 at approximately 7:15 p.m., I went out attempting to locate Peter Van Vleck. I went to Flo's Turf Club, 3115 Delaware Avenue, Kenmore, New York and met Lorraine (last name unknown) and advised her that I was looking for Peter Van Vleck. Lorraine stated that she was also looking for Peter Van Vleck. Lorraine brought up the subject of counterfeit currency and then she advised that she had a man in town interested in buying a large quantity, and that Peter Van Vleck was going to supply this counterfeit currency for her. I advised that I had counterfeit currency available and Van Vleck was supposed to find me a buyer for this counterfeit currency. At this time, Lorraine made a phone call and then advised me that she had a man interested in buying a large quantity of counterfeit currency.

Lorraine and I then proceeded to United Offset Press Services, 808 Main Street, Buffalo, New York, and waited for Lorraine's contact to appear. At approximately 8:15 p.m. same date, Lorraine's contact was introduced to me. We then discussed a sale of counterfeit currency. I was going to sell Lorraine's contact approximately $175,000 in counterfeit $10 and $20 FRN's for $12,000 in genuine currency. I told Lorraine's contact to return to United Offset Press Services, 808 Main Stret, at approximately 5 p.m. on 5/17/73 to consumate the deal.

At approximately 5 p.m. on 5/17/73, Lorraine's contact arrived at United Offset Press Services.

We went to the basement of United Offset Press and I carried up the box containing the counterfeit currency. At this time, Lorraine's contact examined the currency. After examining the currency, we both went to the front door at which time I was apprehended by Federal agents.

This is true and correct to the best of my knowledge. I do so swear.

Witness

Edward J. Mosca

5-17-73

Witness

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

THE UNITED STATES OF AMERICA

-vs-

No. Cr. 1973-211

PETER ALAN THOMAS VAN VLECK,
JOSEPH CANNIZZARO, a/k/a/ "Tepe"
CANNIZZARO, LORRAINE CLORA, EDWARD J.
MORGA and MICHAEL J. GATES

Defendants

PLEASE TAKE NOTICE, that upon the Indictment herein, the trial of the issues, the summation of the Assistant United States Attorney, the Charge by the Court, and upon all prior proceedings heretofore had, a motion will be made at a term of this Court in the United States District Courthouse, Buffalo, New York, on the 13th day of May, 1976, at 10:30 o'clock in the forenoon of that day, or as soon thereafter as counsel can be heard, before the Honorable John T. Curtin, seeking the following relief:

1. A new trial in the interests of justice, pursuant to Rule 33 of the Rules of Criminal Procedure, and

2. The setting aside of the jury verdict of guilty and entry of a judgment of acquittal, Rule 29 (c).

[illegible], the defendant, PETER ALAN THOMAS VAN VLECK, seeks the relief herein set forth, together with any and all different or additional relief which may to the Court seem just and proper.

DATED: May 14, 1976
Buffalo, New York

Yours, etc.
[illegible], Attorney
for Defendant, Peter Alan
Thomas Van Vleck,
Office & P.O. Address
537 Brisbane Building
Buffalo, New York 14203

TO: UNITED STATES DISTRICT ATTORNEY